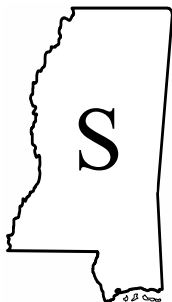


**MISSISSIPPI**  
**STATE TAX COMMISSION**  
**OFFICE OF REVENUE**  
FORM 85-100

**2004**

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**2004 Small Business Corporation Income and Franchise Tax Forms**

There are some important things you can do to help speed processing of your return.

- **Additional schedules and attachments may be stapled to your return.**
- **Web site - Please visit our web site located at [www.msdc.state.ms.us](http://www.msdc.state.ms.us) to find any updates to the instructions and/or worksheets that are contained in this booklet.**
- **You may download forms from our web site. In the Download Tax Forms section, select the appropriate tax year and tax type.**
- **If you are filing an amended return, use Form 83-170.**

**LEGISLATIVE CHANGES FOR 2004**

The following is a brief description of certain legislative changes. A copy of all legislative bills is available at [www.ls.state.ms.us](http://www.ls.state.ms.us).

**House Bill 829** provides a tax credit for certain taxpayers utilizing state, county, or municipal port facilities equal to the charges paid, subject to limitation and verification, on the import of cargo. To be eligible, a taxpayer must locate its United States headquarters in Mississippi on or after July 1, 2004, employ at least five (5) permanent full-time employees who actually work at such headquarters and have a minimum capital investment of Five Million Dollars (\$5,000,000.00) in Mississippi. See page 5 for more details.

**House Bill 1333** amended Section 27-7-37 to eliminate consolidated filings of corporate income tax returns and is effective for tax years beginning on or after January 1, 2004.

**House Bill 1780** enacted the Mississippi Motion Picture incentive Act that, among other incentives, provides for an income tax credit for motion picture production companies equal to ten percent (10%) of the aggregate payroll of residents employed in connection with a state-certified production during the taxable year. See page 5 for more details.

**Senate Bill 2170** increases and redefines the tax credit for employers providing certain skills training and extends the repeal of this credit to July 1, 2006.

**GENERAL INSTRUCTIONS**

**HOW TO FILL OUT FORMS**

Use **Black Ink** when preparing these returns.

**Indicating a Loss** - To indicate a loss (negative income), shade the minus (-) box next to the dollar amount.

**WHO MUST FILE**

"S corporation" means a corporation for which a valid election under section 1372(a) of the Internal Revenue Code is in effect. A corporation must file Form 85-105, Mississippi S Corporation Income and Franchise Tax Return, if (a) it elected to be an S corporation by filing Federal Form 2553, (b) the IRS accepted the election, and (c) the election remains in effect. Do not file Form 85-105 until the corporation has been notified by the IRS that the Federal election has been accepted.

Every S corporation, domesticated or qualified to do business in Mississippi, and every S corporation engaged in business in Mississippi or having sources of income from Mississippi, must file a Mississippi combination S Corporation Income and Franchise Tax Return, Form 85-105.

Every S corporation domesticated or qualified to do business in Mississippi must file a return even though the corporation is inactive or not otherwise engaged in business.

**SUCH A CORPORATION REMAINS SUBJECT TO THE FILING REQUIREMENTS UNTIL SUCH TIME AS THE CORPORATION IS OFFICIALLY DISSOLVED OR WITHDRAWN THROUGH THE OFFICE OF THE MISSISSIPPI SECRETARY OF STATE.**

For tax years beginning on or after January 1, 2002, every exempt corporate organization, as described in Section 27-7-27 or 27-7-29 and not otherwise exempt from the income tax levy, is required to make a corporate tax filing if they have Mississippi unrelated business taxable income.

An S corporation is not subject to income tax imposed by Section 27-7-5, Mississippi Code of 1972, but may be subject to withholding requirements as explained under "Payment of Tax" on the following page. Also, every S corporation domesticated or qualified to do business in Mississippi is subject to the measure of the franchise tax levy. Further, foreign S corporations engaged in business in Mississippi or having sources of income in this state who have not qualified to transact business in this state through the offices of the Secretary of State are subject to the measure of the franchise tax levy.

**Termination of Election**

Once the election is made to be treated as an S corporation, it stays in effect until it is terminated. Mississippi considers the election to be terminated at such time as the election is considered terminated for Federal purposes.

**Time and Place for Filing**

The Mississippi S Corporation Income and Franchise Tax Return, Form 85-105, must be filed with the Commissioner on or before the fifteenth day of the third month following the close of the accounting year. If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday. If the S election was terminated during the tax

year, the due date of Form 85-105 is on or before the 15th day of the 3rd month following the date of termination.  
The return should be mailed to:

**Office of Revenue**  
**P. O. Box 23050**  
**Jackson, Mississippi 39225-3050**

A final return or amended return should be mailed to:

**Corporate Tax Division**  
**P. O. Box 1033**  
**Jackson, MS 39215-1033**

#### **Period Covered by the Return**

File the 2004 return for calendar year 2004 and fiscal years beginning in 2004 and ending in 2005. If the return is for a fiscal year or a short tax year, fill in the tax year space at the top of the form.

#### **Payment of Tax**

The due date for any franchise tax owed by an S corporation is the due date of the return. An S corporation does not pay tax on its income but "passes through" any profits (losses) to its shareholders. Shareholders must include S corporation items on their income tax returns.

Shareholders are subject to tax upon their distributive share of S corporation net income, whether it is distributed to them or not. A nonresident shareholder, who is a shareholder of an S corporation owning property or doing business in the State of Mississippi, is subject to tax on his share of the S corporation income, whether distributed or not. If the S corporation does business both within and without the state, it will be necessary to compute the income (loss) of the S corporation from sources within and without the state in order to determine the amount of income taxable to, or the amount of the loss deductible by, the nonresident shareholders. The nonresident shareholder is subject to tax only on such share of his income, whether or not distributed, as is assigned to Mississippi.

An S corporation may elect to file a composite return and make composite payments of tax on behalf of some of its nonresident shareholders. In general, any nonresident individual may elect to be included in a composite filing. For more information on filing a composite return see page 7. **If a nonresident is going to file a Mississippi nonresident individual tax return he or she must not be included in a composite return, but should separately pay estimated taxes as an individual using voucher Form 80-300.**

All nonresident shareholders of Mississippi S corporations are required to execute an agreement (a) to file a return and to make timely payment of all taxes imposed on the shareholder by the state of Mississippi with respect to the income of the S corporation, and (b) to be subject to personal jurisdiction in this state for purposes of the collection of income taxes, together with related interest and penalties, imposed on the shareholder by this state with respect to the income of the S-Corporation. Form 85-380, Nonresident Income Tax Agreement, should be filed with the S-Corporation and maintained by the S-Corporation as a part of its permanent tax files. This form should not be sent with the return. A reproducible copy of Form 85-380 is included as a part of these instructions of this booklet.

In the event, the S corporation fails to obtain the agreement of a nonresident shareholder indicated above or in the event a nonresident shareholder fails to file a return and to make timely payments of all taxes imposed on the shareholder by this state, the S corporation shall make a payment to the state in an amount equal to the highest marginal tax rate in effect under section 27-7-5 (5% for the year 2004) multiplied by the shareholder's pro rata share of the income attributable to the state reflected on the corporation's return for the taxable period.

#### **Extension of Time to File Return**

The Commissioner may grant a reasonable extension of time beyond the statutory due date to file an income/franchise tax return. **THE AUTHORIZED EXTENSION OF TIME TO FILE DOES NOT EXTEND THE TIME FOR PAYMENT OF THE INCOME OR FRANCHISE TAX DUE. INTEREST AND PENALTY SHALL APPLY ON ANY UNDERPAYMENT OF TAX.**

Taxpayers having a tax liability who request an extension of time must remit the tax due with their Mississippi application for extension. An S corporation may submit Form 83-180 on or before the due date of its return, including any remittance for any tax liability, and receive an automatic extension of time to file its tax return.

#### **INTEREST AND PENALTY PROVISIONS**

**Late Payment** - Interest at the rate of 1% per month from the regular due date until paid, is due on the amount of unpaid tax whenever such is not paid on the regular due date, even though an extension of time to file the return has been granted or authorized. The penalty imposed for failure to pay the tax when due is 1/2% per month based on tax not paid by the due date not to exceed 25% in the aggregate.

**Late or Non-File** - Penalties are imposed for failure to file a return or pay the tax when due. The penalty imposed for failure to file a return is 5% per month not to exceed 25% in the aggregate. The penalty imposed for failure to file is based on the additional amount of tax due, not total tax due on the return. Such failure to file a return penalty shall not be less than \$100.

**Incomplete Returns** - An S corporation that does not file a complete return or does not file a return within the prescribed time may be subject to a penalty of \$25 per required attachment or schedule up to a maximum of \$500 per return.

To be a complete return, a return should contain all the requisite general information, as well as all summary tax information and the basic back up schedules. Examples of the

required general information are complete name, current address, ID number, officer's signature, and other information relating to the filing entity as requested on page 2 of Form 85-105.

Examples of the summary tax information are the front page of the return, the computation of net income, the franchise tax schedules, the computation of the apportionment factor (if income is apportioned), the direct accounting income statement (if applicable), the balance sheet, schedules showing the computation of any tax credit generated (such as jobs credit) and schedule K reflecting information pertaining to shareholders' distributive shares of income and deductions.

Examples of the basic backup schedules are details of other additions or other deductions as requested on the computation of net income schedule, details of other additions or other deductions as requested on other statements made a part of the return, and details of nonbusiness income (loss) directly allocable to Mississippi and other business income (loss) as requested on the front page of the return.

The purpose of this penalty provision is to ensure that sufficient information is disclosed on the return to assure the collection of the correct tax due. If a minor schedule is inadvertently omitted one time from the tax return, the penalty will not be imposed; but if major schedules (such as the balance sheet) are omitted or incomplete, or if schedules are consistently omitted or incomplete, then the penalty will be imposed. The more severe or consistent the omission, the more likely it is that the penalty will be imposed.

#### **RATES OF TAX**

- (a) Franchise tax - \$2.50 per \$1,000, or fractional part thereof, of capital, surplus, undivided profits and true reserves employed in Mississippi. (Minimum tax of \$25).
- (b) (Composite Return) Income Tax - 3% on the first \$5,000 of taxable income, 4% on the next \$5,000 of taxable income, and 5% on taxable income in excess of \$10,000.

#### **WHO MUST SIGN**

The return must be signed by the president, vice president or other officer of the corporation. A receiver, trustee, or assignee must sign any return which he/she is required to file on behalf of an S corporation.

#### **INSTRUCTIONS FOR DETERMINING FRANCHISE TAX**

The franchise tax is measured by the value of capital used, invested or employed in the exercise of any power, privilege or right enjoyed by the corporation within Mississippi. The mode of measurement is the amount of capital of the corporation employed or so situated as to be privileged to be employed in the state. In determining the amount of capital, the net book value as regularly employed in conducting the affairs of the corporation shall be accepted as prima facie correct as to the true capital of the corporation, except where the Commissioner determines that the book value does not properly reflect capital employed in this state and in that situation the Commissioner's determination of capital shall be prima facie correct.

Form 83-110, Corporate Franchise Tax Schedule, must be completed by all corporations indicating the amount of capital of the corporation. All reserves, which do not represent definitely known and fixed liabilities, must be considered as elements of capital of the corporation. Amounts designated for payment of dividends may not be excluded unless such amounts have been definitely and irrevocably placed to the credit of the stockholder, subject to withdrawal on demand. Sums representing debts, notes, bonds, mortgages due and payable, depreciation reserves, bad debt reserves, or reserves representing valuation accounts may be excluded (unless between affiliated companies or shareholders).

#### **Attention: Multistate Taxpayers**

For tax years ending on or after December 31, 2001 - The property and receipts of flow-through entities must be included in a multi-state corporate partner's computation of the apportionment ratio applied to the capital base. The assessed value of property of flow-through entities must be included in a multistate corporate partner's assessed value of property when determining the alternate capital base.

Lines 10 through 13 of Form 83-110 must be completed by multistate corporations doing business both within and without Mississippi. Total capital of a multistate corporation is apportioned to Mississippi in the ratio that real and tangible personal property owned in Mississippi and gross receipts from business carried on in Mississippi bears to the total real and tangible personal property owned by the corporation and gross receipts wherever located and from wherever received. The amount of capital apportioned to Mississippi is computed on line 14, Form 83-110.

The section of Form 83-110 concerning the assessed values of all real and personal property in Mississippi must be completed by all corporations. Sections 27-13-9 and 27-13-13, Mississippi Code of 1972, provide that the amount of the determined capital in Mississippi shall in no case be less than the assessed value of the Mississippi property of the corporation for the year preceding the year in which the return is due.

Taxable capital and the net franchise tax due are calculated on lines 16 through 21 of Form 83-110. The amount of taxable capital shown on line 18 should be entered on line 1, Form 85-105. The net franchise tax due as shown on line 21 should be entered on line 2, Form 85-105.

#### **TREATMENT OF A QSSS AND/OR SMLLC AND ITS OWNER - INCOME AND FRANCHISE TAXES**

A federal election to be treated as a Qualified Subchapter S Subsidiary (QSSS) is considered an election for state purposes and as such the QSSS will be treated the same for state income and franchise tax purposes. Thus the QSSS's activity is treated as a division of its parent S Corporation for federal income tax purposes and will be treated in the same manner for state income and franchise tax purposes. A parent S corporation that is required to file and report for Federal income tax purposes on the activity conducted in Mississippi by its QSSS is considered doing business in Mississippi for both income and

franchise tax purposes and shall include the activity of the QSSS when making income and franchise tax return filings to this state. The QSSS will not make separate return filings.

An S corporation, that does not have a QSSS election in effect, will make return filings in the same manner as any other S corporation. An S corporation is subject to the franchise tax and must compute its Mississippi income. Unless a composite return election is in effect, each shareholder will make a filing to this state reporting its Mississippi taxable income and, if a corporation, will make at least the minimum franchise tax payment.

A Single Member Limited Liability Company (SMLLC) that is disregarded for federal reporting purposes will be disregarded for state reporting purposes. The SMLLC's activity in this state will be reported by the owner of the SMLLC when making its return filings. A corporate owner of an SMLLC will make income and franchise tax return filings based on its activities and the activities of any disregarded entities. If the owner of the SMLLC is itself an SMLLC or other type of disregarded entity, then such amounts will be reported by the ultimate owners which are not disregarded entities.

#### INSTRUCTIONS FOR COMPUTING TAXABLE INCOME

Generally, all domestic and foreign corporations having income from sources within Mississippi must complete Form 85-122, Computation of Net Taxable Income Schedule, which makes adjustments for additions to and deductions from Federal ordinary income due to differences in Federal and Mississippi laws, in arriving at the net income (loss) for State purposes.

**Total Assignment of Income.** If the business activity in respect to any trade or business of the corporation occurs within this state, and if by reason of such business activity the corporation is not taxable in another state, the total net income (loss) of the corporation is assigned to Mississippi.

**Direct or Separate Accounting Method.** Producers of Mineral or Natural Resource Products and certain Construction Contractors are required to use direct accounting in computing their taxable income to this state. For more details see Mississippi Income Tax Regulation 806. Other taxpayers may not employ a direct accounting method unless they have obtained, since January 1, 2001, written authority from the Commissioner to do so.

**Apportionment of Business Income.** If the business activity in respect to any trade or business of a taxpayer occurs both within and without this state, and if by reason of such business activity the taxpayer is taxable in another state, the portion of the net income (loss) arising from such trade or business which is derived from sources within this state, shall be determined by apportionment in accordance with the formulas prescribed by Regulation 806 unless prescribed otherwise. In such case, the taxpayer must complete Form 83-125, Mississippi

Business Income Apportionment Schedule. Multistate contractors use Form 83-124.

**Allocation of Nonbusiness Income.** Nonbusiness income (loss) shall be allocated by multistate corporations within and without this state in accordance with the provisions of Regulation 806.

**Installment Sales.** Mississippi does not follow federal rules concerning installment sales. Gain from the sale of casual property will be recognized in the year of sale. However, tax on the gain may be deferred.

Deferred taxes are generally paid as the proceeds from the sale are received. However, the following will result in acceleration of payments.

1. Transfer, disposition, sale, or disposal of the note in any manner will result in deferred tax payments becoming immediately due and payable.
2. Liquidation, dissolution, withdrawal from this state, and certain merger transactions will result in deferred tax payments becoming immediately due and payable.
3. Failure to comply with the necessary filing requirements.

Taxpayer's who elect the installment method for federal income tax purposes should include as a part of their return filing both a Federal Form 6252 and a schedule of any differences between the federal and Mississippi amounts. For an example, see our web site at [www.mstc.state.ms.us](http://www.mstc.state.ms.us).

**Deductibility of Certain Intangible Expenses And Related Interest Expenses Incurred With Related Members.** A taxpayer will be required to add back to its computation of net income:

1. Intangible expenses and costs and interest expenses and costs in relation to or in connection with the direct or indirect maintenance or management, ownership, sale, exchange, or other disposition of intangible property,
2. Royalty, patent, technical, and copyright fees, licensing fees, and other similar expenses,
3. Expenses and costs associated directly or indirectly with factoring transactions or discounting transactions.

Intangible property includes patents, patent applications, trade names, trademarks, service marks and similar types of intangible assets.

**Limitations:** The adjustment will not apply to such portion of intangible expenses and costs and interest expenses and costs which are not with a related member or the related member is not primarily engaged in the acquisition use maintenance, management, ownership, sale, exchange or other disposition of intangible property and the transaction(s) were done for a valid business purpose.

#### Arms-Length Transactions

The state definition of "arms-length" is not tied to that of the Federal definition. See Section 27-7-9(j)(6). The commissioner can adjust a transaction when income has been shifted between related parties and/or taxes have been avoided in this state.

**Long Term Capital Gains From Sales of Stock/Interest in Domestic (Mississippi) Corporations, Limited Liability Companies, or Limited Liability Partnerships.** Gains from the Sale of certain interests in domestic entities are not recognized as a part of income. In addition, certain gains from the sale of all or at least 90% of the assets of a domestic corporation are not recognized as a part of income. However, ALL depreciation and amortization must be recaptured prior to any non-recognition of gain from the sale of assets. The recapture computation is different than the method used for determining ordinary income for federal purposes. For more details and limitations, please refer to Mississippi Code Section 27-7-9(f)(10) A & 27-7-9(f)(10)B.

**Capital Loss Carrybacks/Carryforwards.** Capital losses may be deducted only to the extent of capital gains. Excess capital losses are reported to shareholders. The definition of capital loss carryover, capital loss carryback, short-term capital loss, long-term capital loss, and similar terms are the same as for federal income tax purposes. Form 83-155 or other comparable schedule must be attached showing the carryback and carryover of capital losses.

**Extraterritorial Income.** Mississippi has not adopted federal provisions related to Extraterritorial Income Exclusion. The amount related to this exclusion of income on the federal return must be added back in the Mississippi income tax return prior to the apportionment of income. The proper placement for this Mississippi adjustment to federal income on Form 83-122, 85-122 and 86-122 is the line titled "Other Additions Required by Law". A copy of Federal Form 8873 should be attached to the Mississippi return when this adjustment is being made for federal purposes.

In addition, a FSC (foreign sales corporation) that is organized under the laws of a U.S. territory is treated as a domestic corporation and, thus, dividends received from it are considered apportionable business income.

#### BUSINESS INCOME OF PRODUCERS OF MINERAL OR NATURAL RESOURCE PRODUCTS

Taxpayers engaged in the trade or business of producing oil, gas, other liquid hydrocarbons, sulfur, coal, sand, gravel and other mineral or natural resource products, except timber, shall determine Mississippi net business income from such activity on a direct or separate accounting basis.

The Mississippi gross business income from the production of mineral or natural resources shall include: (a) sales of natural or mineral resources produced in Mississippi and sold in this state;

(b) the market value, at the time of transfer, of all natural or mineral resources produced in this state and transferred by the taxpayer to another state for sale, refining, processing or manufacturing, provided that if the natural or mineral resources are sold by means of an "arms-length" transaction prior to refining, processing or manufacturing, the market value prescribed herein shall not exceed the selling price; and (c) the market value at the time of transfer, of all natural or mineral resources produced by the taxpayer in Mississippi and transferred to a refinery, processing plant, or manufacturing facility of the taxpayer in Mississippi.

A natural resource product shall be deemed to be sold in Mississippi if it is located in this state at the time title thereto passes to the purchaser. In the absence of specific proof of value of natural resources at the time of transfer from the state, the value of natural resources at the time of production shall be determined in accordance with the methods prescribed for the determination of "gross income from the property" for purposes of percentage depletion for federal income tax purposes.

#### UNRELATED BUSINESS TAXABLE INCOME OF OTHERWISE EXEMPT ORGANIZATIONS

For tax years beginning on or after January 1, 2002, every exempt organization, as described in sections 27-7-27 or 27-7-29 and not otherwise exempt from the income tax levy (federal & state agencies, etc.), is required to file an income tax return with this state if the organization:

- 1) earns or receives unrelated business taxable income as determined under IRC Section 512 or is an ESOP with an interest in an "S" corporation, and
- 2) is a resident of this state, doing business in this state, or receiving income from sources within this state.

Corporate organizations file Form 83-105 and any necessary supplemental schedules. Trust organizations file Form 81-110 and any necessary supplemental schedules. In computing taxable income, enter on line 1 of Form 83-122 (line 1, page 2 of Form 81-110 for trust organizations) the amount of unrelated business taxable income before any net operating loss and specific deduction as reported on Federal Form 990-T. A complete and signed copy of Federal Form 990-T must be attached to the back of the Mississippi schedules as a part of the return filing. Make any necessary adjustments for income/expenses otherwise included/excluded under the income tax laws of this state such as income from sources without this state, add-back of nondeductible income taxes, etc.

Exempt corporate organizations required to file Form 83-105 which are not subject to the franchise tax levy should leave lines 2 and 3 blank.

Corporate organizations must make all required tax payments by the 15<sup>th</sup> day of the third month following the close of the tax year. While the filing deadline is also the 15<sup>th</sup> day

of the third month following the close of the tax year, an automatic six-month filing extension is granted. If a taxpayer files an extension for federal tax purposes, the Mississippi filing deadline will be extended through the date of the federal extension as well.

Corporate organizations with unrelated business taxable income are subject to the same estimated payment requirements as other corporate taxpayers.

Trust organizations, including employee and retirement trusts having unrelated business taxable income must file Form 81-110. Employee Stock Ownership Plans that receive Mississippi income as a shareholder in an "S" corporation must include such income as a part of Mississippi taxable income. The source of the income is determined by the "S" corporation's activities and is reported on Form 85-132 to the ESOP shareholder.

Trust organizations must make all required tax payments by the 15<sup>th</sup> day of the fourth month following the close of the tax year. Generally, if a filing extension is granted for federal tax purposes, it will be granted for state purposes as well. A copy of the federally approved extension must be attached with the return filing.

## INCENTIVE CREDITS

Incentive credits arising at the S corporation level are passed through to the shareholders based on their percentage of stock ownership in the S corporation earning the credit. As a general rule, the credit passed through to the shareholder can be applied only to the income tax attributable to the shareholder's income derived from the S corporation earning the credit.

In the case of a Mississippi resident who is a shareholder in a multistate S corporation, credits passed through from the S corporation may be used to offset only the amount of income tax attributable to the shareholder's share of S corporation income assigned to Mississippi. Form 83-401, Income Tax Credit Summary, should be completed and attached as part of the return.

The following is a brief description of the major credits allowed under State statutes:

**Jobs Tax Credit.** A credit is allowed for increasing employment levels in certain types of business. For a credit to be allowed, the business must be primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling, or research and development; or designated by rule and regulation by the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprises.

The amount of the credit is determined by the classification of the county in which the qualified job is located. The 82 counties are divided into 3 groups. A credit is allowed annually for each net new full time job created for 5 years beginning with years 2 through 6 after the creation of the job. Credit is not allowed for a year if the net employment increase falls below the minimum level. The dollar credit per employee and the minimum number of new jobs needed to be created, in a given year, to qualify for this credit is listed below.

County Classification	Avg. Minimum No. Of Jobs Created in a Given Year	Dollar Credit Per Job
Tier Three (Less Developed)	10 or More	\$2,000 Annually
Tier Two (Moderately Developed)	15 or More	\$1,000 Annually
Tier One (Developed)	20 or More	\$500 Annually

The number of jobs created is calculated by taking the average level of employment for the given year (taxpayer's reporting period for income tax) less the average level of employment of the prior reporting period (12 months). The Corporate Tax Division should be consulted if short periods are involved. This is the only credit that involves the use of an average increase over the prior year in its calculation.

Form 83-450, New Jobs Credit Schedule, must be completed and attached to the return.

**National and Regional Headquarters Credit.** A credit of \$500, \$1,000 or \$2,000 (dependent upon average annual wage) for each net new full-time employee is allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi and creating a minimum of 35 jobs at the headquarters. The headquarters credit is available to any company regardless of the business in which it engages except for businesses engaged in the transportation, handling, storage, processing or disposal of hazardous waste. The minimum increase of 35 jobs must occur within 1 year.

**Research and Development Jobs Skills Credit.** Beginning January 1, 2001, this credit increased from \$500 to \$1,000 for those hired after such date. It is authorized for each full-time employee in any new job requiring research and development skills. Specific examples of jobs requiring research and development skills are chemists and engineers. Qualification of other jobs for this credit would require a minimum a bachelor's degree in a scientific or technical field of study from an accredited four- (4) year college or university, employment in the area of expertise and compensation at a professional level. The research and development job credit is available to any company regardless of the business in which it engages.

A business interested in qualifying for the research and development jobs tax credit should request approval in writing and provide the following information for each individual research and development position: (1) Title, (2) Purpose, (3) Education requirements, (4) Experience requirements, (5) Hours worked per week, (6) Salary or

compensation and (7) Expected hire date. The applicant will be notified on approval of the application for credit.

Businesses that employ a person in an approved research and development job for less than their full tax year will be allowed that portion of the \$1,000 yearly credit in the ratio that the number of qualified full months that the employee worked in the state divided by 12.

**Child/Dependent Care Credit.** An income tax credit is allowed to any employer providing dependent care for its employees during the employee's working hours. The credit allowed is 50% of qualified expenses. This credit can offset 100% of income tax. Any excess credit will not be refunded, but can be carried forward for up to five years. An expense cannot be used both as a deduction and as the basis for a credit. Any expense used in computing the allowable credit cannot be taken as a deduction.

Employers must have their child care program certified by the Department of Health for programs serving children twelve (12) years of age or younger and for programs serving elderly adults and by the State Tax Commission for programs serving other dependents older than twelve (12) years of age. A copy of the certification must be furnished by the taxpayer to the State Tax Commission when the certification is granted. Information can be obtained at the following office: Mississippi State Department of Health, Division of Child Care and Special Licensure, P. O. Box 1700, Jackson, MS 39215-1700.

**Skills Training Credits.** A credit is allowed for certain employer-sponsored basic skill training and retraining programs. The credit allowed is 50% of qualified expenses not to exceed 50% of the income tax liability. Any excess credit will not be refunded, but can be carried forward for up to five (5) years. In addition, the credit shall not exceed \$2,500, in the aggregate, per employee, over a three-year period. The job training and retraining tax credit shall be in addition to all other tax credits heretofore granted by the laws of this state.

For tax years beginning after July 1, 2004, the maximum amount of credit is increased to an amount not to exceed \$2,500 per employee per year. The repeal date on this provision is extended to July 1, 2006.

**Mississippi Business Finance Corporation Revenue Bond Service Credit.** Only debt service paid on revenue bonds issued by the Mississippi Business Finance Corporation to finance economic development projects to induce the location of manufacturing facilities within this state can be taken as a credit. This credit can be used against the taxes due from the income generated by or arising out of the economic development project. For more information on the benefits of this program contact the Mississippi Development Authority, P. O. Box 849, Jackson, MS 39205-0849.

**Ad Valorem Inventory Tax Credit.** This is an income tax credit for manufacturers, distributors and wholesale or retail merchants for a certain amount of ad valorem taxes paid on commodities, goods, wares and merchandise held for resale. The credit may be claimed only in the year in which the ad valorem taxes are paid and may be claimed for each location where such commodities, products, goods, wares and merchandise are found and upon which the ad valorem taxes have been paid. For the 1997 tax year and beyond the tax credit for each location on which ad valorem taxes have been paid, shall not exceed the lesser of \$5,000 or the amount of income taxes attributable to such location.

The act also provides that any ad valorem taxes paid by a taxpayer that is applied toward the tax credit may not be used as a deduction by the taxpayer for state income tax purposes. **A COPY OF THE TAX RECEIPT FROM THE COUNTY THAT SHOWS THE INVENTORY VALUATION AND A SCHEDULE SHOWING THE CALCULATION OF THE AD VALOREM TAX PAID BASED ON THE VALUATION MUST BE ATTACHED TO THE RETURN.**

**Export Port Charges Credit.** An income tax credit is authorized for taxpayers that utilize the port facilities at state, county, and municipal ports. The income tax credit is equal to the total export cargo charges paid by the taxpayer for: (a) receiving in the port; (b) handling to a vessel; (c) wharfage. The credit provided shall not exceed 50% of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits. Any unused portion of the credit may be carried forward for the succeeding 5 years. The maximum cumulative credit that may be claimed by a taxpayer pursuant to this act beginning January 1, 1994 and ending December 31, 2005 is limited to \$1,200,000.

**Import Port Charges Credit.** An income tax credit is authorized for taxpayers that utilize the port facilities at state, county, or municipal ports for the import of cargo. To be eligible, a taxpayer must locate its United States headquarters in Mississippi on or after July 1, 2004, employ at least five (5) permanent full-time employees who actually work at such headquarters and have a minimum capital investment of Five Million Dollars (\$5,000,000.00) in Mississippi. The income tax credit is equal to the charges paid by the taxpayer for: (a) receiving in the port; (b) handling to a vessel; and (c) wharfage. The credit provided shall not exceed 50% of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits. Any unused portion of the credit may be carried forward for the succeeding 5 years. The maximum cumulative credit that may be claimed ranges between \$1,000,000 (one million) and \$4,000,000 (four million) depending on the number of permanent full-time employees of the taxpayer.

**Mississippi Motion Picture Incentive Income Tax Credit.** Beginning July 1, 2004 an income tax credit is authorized for motion picture production companies in an amount equal to ten percent (10%) of the total aggregate payroll of residents employed in connection with a state certified production during the taxable year. The credit is not refundable, but any unused portion may be carried over for up to ten years.

"Motion picture" means a nationally distributed feature-length film, video, television series or commercial made in Mississippi, in whole or in part, for theatrical or television viewing or as a television pilot. The term "motion picture" shall not include the production of television coverage of news and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Section 97-29-103.

"Motion picture production company" means a company engaged in the business of producing nationally distributed motion pictures, videos, television series or commercials intended for a theatrical release or for television viewing. The term "motion picture production company" shall not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, or any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

"State-certified production" means a motion picture approved by the Mississippi Development Authority produced by a motion picture production company in the state.

"Payroll" means salary, wages or other compensation including related benefits.

**Reforestation Tax Credit.** Beginning in 1999, this credit, based on the costs incurred for certain approved reforestation practices, is an amount equal to the lesser of fifty percent (50%) of the actual cost of approved practices or fifty percent (50%) of the average cost of approved practices as established by the Mississippi Forestry Commission. The lifetime maximum reforestation tax credit that an eligible owner may earn and/or utilize is \$10,000 in the aggregate. For an S Corporation, these limitations apply to the S Corporation and to each shareholder. In any taxable year, the credit shall not exceed the lesser of \$10,000 or the amount of income tax imposed upon the eligible owner for the taxable year reduced by the sum of all other credits allowable to the eligible owner. Any unused portion of the credit may be carried forward to succeeding years. Generally, reforested acreage on which the eligible owner receives any state or federal cost share assistance funds to defray the cost of an approved reforestation practice is not eligible for the credit. The credit is not available to private corporations, which manufacture products or provide public utility services of any type or any subsidiary of such corporations.

**Broadband Technology Credit (BTC).** A tax credit is provided for telecommunications enterprises making investments in equipment used in the deployment of broadband technologies. The credit applies to both income and franchise taxes. The credit is a percentage of the cost of the investments incurred after June 30, 2003 and before July 1, 2013. The percentage applied is 5%, 10%, and 15% for Tier 1, Tier 2, & Tier 3 counties respectively. For more details on eligibility, computation of the credit, qualifying expenditures, limitations, carryovers, as well as any necessary forms or work sheets, please contact the Corporate Tax Division at 601-923-7099. Enterprises qualifying for this credit are able to receive certain sales tax exemptions as well. For more information please contact the Sales Tax Bureau at 601-923-7015.

#### General Restrictions on the Incentive Credits

**The only credits whose usage are dependent on another credit are the Export Port Charges Credit, Import Port Charges Credit, and the Reforestation Tax Credit. The Reforestation Tax Credit should be used last.** The total of the Jobs Tax Credit, the Headquarters Credit and the R & D Skills Credit, cannot exceed 50% of the total income tax due. The other credits are not limited in such a manner and their usage will be independent of one another. When one credit is limited to 50% of the income tax due and another one is also limited to 50% then combined, they may offset 100% of the income tax due. It will be up to the taxpayer to list, which credits are to be used on the tax return. Please keep in mind that a number of the credits do not have carry forward provisions.

When a deduction on the Mississippi tax return also gives rise to a tax credit, the amount of that credit which is being used in the current return must be added back to Mississippi income (loss) after any apportionment of income.

The adding back of the credit to taxable income will increase the tax liability, which may increase the amount of credit that may be taken. When this is the case, continue to increase the amount of credit being used and the add back to income until there is a difference of \$1,000.00 or less between the two. Therefore, the credit added back may be, at most, \$1,000.00 less than the credit being used. This is a departure from prior year's instructions. It has been changed due to the fact that a credit may be earned in the current year but may expire prior to being used by the taxpayer, thereby denying the taxpayer a deduction. Also, some credits are based on a percentage of an expense, and in this case only the credit used should be added back. Those credits which are affected are Finance Company Privilege, Child/Dependent Care, Skills Training, Gaming, Rural Economic Development (RED), Export Port Charges, Import Port Charges, Reforestation, and Ad Valorem tax credits.

The credits allowed shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credit.

#### Completing the Return

**Round to the Nearest Dollar.** All dollar amounts should be rounded to the nearest whole dollar (no pennies). Round down to the next lower dollar amounts under \$.50 and round up to the next higher dollar amounts of \$.50 and over. For example: \$2.15 becomes \$2.00; \$4.75 becomes \$5.00; and \$3.50 becomes \$4.00. Additional schedules or attachments may be stapled to the return. Follow the line instructions on the return. Additional specific instructions follow.

#### Line Item Instructions for Form 85-105, page 1

**Taxpayer Information.** Please provide all information requested. County codes are listed in the following table. Enter the code corresponding to your principal business location.

#### County Codes.

County	Code	County	Code	County	Code
Adams	01	Itawamba	29	Pike	57
Alcorn	02	Jackson	30	Pontotoc	58
Amite	03	Jasper	31	Prentiss	59
Attala	04	Jefferson	32	Quitman	60
Benton	05	Jefferson-Davis	33	Rankin	61
Bolivar	06	Jones	34	Scott	62
Calhoun	07	Kemper	35	Sharkey	63
Carroll	08	Lafayette	36	Simpson	64
Chickasaw	09	Lamar	37	Smith	65
Choctaw	10	Lauderdale	38	Stone	66
Claiborne	11	Lawrence	39	Sunflower	67
Clarke	12	Leake	40	Tallahatchee	68
Clay	13	Lee	41	Tate	69
Coahoma	14	Leflore	42	Tippah	70
Copiah	15	Lincoln	43	Tishomingo	71
Covington	16	Lowndes	44	Tunica	72
Desoto	17	Madison	45	Union	73
Forrest	18	Marion	46	Walthall	74
Franklin	19	Marshall	47	Warren	75
George	20	Monroe	48	Washington	76
Greene	21	Montgomery	49	Wayne	77
Grenada	22	Neshoba	50	Webster	78
Hancock	23	Newton	51	Wilkinson	79
Harrison	24	Noxubee	52	Winston	80
Hinds	25	Oktibbeha	53	Yalobusha	81
Holmes	26	Panola	54	Yazoo	82
Humphreys	27	Pearl River	55	<b>Out-of-State</b>	83
Issaquena	28	Perry	56		

**Line 1.** Enter the amount of taxable capital from Form 83-110, line 18.

**Line 2.** Enter the amount of franchise tax due as computed on Form 83-110, line 21. Franchise tax is due by the original due date of the return. The automatic six-month extension of time only extends the time for filing the return, not the payment of any tax. If the franchise tax is not paid by the original due date, interest and penalty for late payment should be computed and entered on line 15 below. See instructions for line 15 for the computation.

**Line 3.** An S corporation cannot join in the filing of a combined income tax return. However, an S corporation and all of its Qualified Subchapter S Subsidiaries will be included in a single return filing by the parent S corporation. All of the assets, liabilities, and items of income, deductions, and credits of the QSSS are treated for income tax purposes as if they belong to the parent, and its income, deductions and credits are to be included in the parent's income tax return. In such a case, the owner of the QSSS is considered doing business in Mississippi for both income and franchise purposes. If applicable, enter the name and FEIN of the subsidiary. This same rule applies with respect to the corporate owner that is required to file and report for Federal income tax purposes on the activity conducted in Mississippi by a SMLLC.

**Line 4.** Enter zero UNLESS the taxpayer is filing a composite return or is required to make a payment of tax because it failed to obtain an agreement from a nonresident shareholder required by subsection (3)(a) of section 10 of the Mississippi S Corporation Income Tax Act. In either of these situations, enter the total of the nonresident shareholders' distributions included in the composite return or on which payment of tax is required by the S Corporation for failure to secure the above mentioned agreement.

**Line 5.** An S corporation is not subject to the income tax imposed by section 27-7-5, Mississippi Code of 1972, as amended. However, if the S corporation either (a) files a composite return and makes composite payments of tax on behalf of some or all of its

nonresident shareholders, or (b) makes a payment of tax because it failed to obtain an agreement from a nonresident shareholder required by subsection (3)(a) of section 10 of the Mississippi S Corporation Income Tax Act or because a nonresident shareholder fails to file a return and to make timely payments of all taxes imposed on the shareholder by this state, the amount of the payments should be entered here. See the instructions on page 7 for filing a composite return and for rates of tax for composite returns and the other payments indicated above.

**Line 6a.** As a general rule, any ad valorem tax credit generated by the S corporation would be passed through to the shareholders based on their respective ownership percentages. In the event that a composite return is filed on behalf of some or all of the nonresident shareholders, or in the event that a liability for taxes arises due to the failure to secure an agreement from a nonresident shareholder as discussed above or a nonresident shareholder fails to file a return and make timely payment of taxes due, any ad valorem credit which would otherwise be passed through to the shareholder(s) involved may be utilized against the tax liability shown on line 5. (Attach a schedule showing the ad valorem taxes utilized against each shareholder's tax liability.)

**Line 6b.** As a general rule, all other credits generated by the S corporation are passed through to the shareholders based on their respective ownership percentages. For each credit claimed, other than ad valorem, enter the credit code number and the amount of credit. Place the total claimed in the far right column. For limitations please see the credits section on page 4 and 5.

**Line 7.** Enter the net income tax due (line 5 less lines 6a and 6b). If the total of lines 6a and 6b equals or exceeds the amount shown on line 5, enter a zero.

**Line 8.** Enter the total franchise and income tax due. (Add lines 2 and 7)

**Line 9.** If the current Mississippi Income Tax liability (line 7) is \$200 or less, then estimated income tax payments were not required for this year. If the current year Mississippi Income Tax liability exceeded \$200, Form 83-305 should be completed and attached to the return if filing a composite return. Enter on this line the amount shown on Form 83-305, line 18.

**Line 10.** Enter the total amount due for franchise and income tax, interest and penalty on underestimated income tax payments (add lines 8 and 9).

**Line 11.** Enter the amount of any overpayment from the prior period return that was elected to be credited to estimated tax.

**Line 12.** Enter the total amount of estimated tax payments and payments with extensions. This should equal the total of quarterly estimated income tax payments and the amount of income and franchise tax paid with the request for an automatic six-month extension of time to file.

**Line 13.** Enter the total payments made for the tax year (add lines 11 and 12).

**Line 14.** Enter the balance of tax due. This is the amount of total tax due less previous payments (line 10 minus line 13).

**Line 15.** Enter the amount of interest and penalty due on late payment of the tax. An extension of time only extends the time for filing a return, not payment of the tax. If the income and franchise tax is not paid by the original due date of the return, then interest is due at the rate of 1% per month. Penalties are imposed for failure to file a return or pay the tax when due.

The penalty imposed for failure to pay the tax when due or on additional tax due is 1/2% per month not to exceed 25% in the aggregate. The penalty is based on additional tax due. Interest and penalty for late payment is not charged on interest and penalty on underestimated income tax payments. The correct amount to be used in computing the interest and penalty for this line (line 15) is line 8 minus lines 11 and 12.

The penalty imposed for failure to file a return is 5% per month not to exceed 25% in the aggregate. The failure to file penalty is based on the additional amount of tax due, not total tax due on the return. Such failure to file penalty shall not be less than \$100.

**Line 16.** Enter the amount that is remitted with this return (line 14 plus line 15). Make check payable to: State Tax Commission for the total amount due.

**Line 17.** If there is an overpayment (line 13 minus line 10), enter the amount of the total overpayment on this line. On lines 18 and 19, designate the disposition of this total overpayment. The total of lines 18 and 19 should equal line 17.

**Line 18.** Enter the portion of line 17 that you wish refunded.

**Line 19.** Enter the portion of line 17 that you wish to carry forward and credit against your next year's tax liability.

**Mississippi Schedule K-1.** The amounts to be shown on the Mississippi Schedule K-1 should represent Mississippi income and/or deductions. Due to the differences in treatment of various elements of income, expenses and/or credits for Federal and State purposes, the amounts shown on the Mississippi K-1 will not necessarily be the same amounts as shown on the Federal K-1. Determination of the amounts to be reported on the Mississippi K-1 should be made using the same procedure as used for determining amounts shown on the Federal K-1.

## INSTRUCTIONS FOR COMPLETING FORM 85-122 - COMPUTATION OF NET TAXABLE INCOME SCHEDULE.

### Notes and General Instructions:

1) Taxpayers must make certain adjustments to federal taxable income in arriving at Mississippi net income. This schedule highlights some of the differences but is not an all-inclusive list.

2) The Mississippi Income Tax Regulations are available at our web site ([www.mstc.state.ms.us](http://www.mstc.state.ms.us)). The Mississippi Code is available at the Secretary of State's web site ([www.sos.state.ms.us](http://www.sos.state.ms.us)).

3) Multistate construction contractors and producers of mineral or natural resource products are required to use direct accounting as provided for on Form 83-124. In this situation, lines 1 through 13 of this form are not completed unless the taxpayer also has income apportionable to this state from another line of business.

4) Lines 10, 11, 12, 14, & 16 of this form do not apply to taxpayers doing business only in Mississippi.

### LINE INSTRUCTIONS:

**Line 1.** Enter the amount of ordinary income (loss) from trade or business activities from Federal Form 1120S, Page 1.

**Line 2.** Enter the combined amount of the pass-through income items shown on Federal Form 1120S, Schedule K. Long term and short term capital losses are included only to the extent of current year capital gains.

**Line 3.** Enter the combined amount of pass-through deductions shown on Federal Form 1120S, Schedule K.

**Line 4.** Enter the total of lines 1 plus 2 less line 3. This amount represents federal net income.

**Line 5a.** Enter the amount of state, local and foreign government income taxes claimed as a deduction on Form 1120S.

**Line 5b.** Enter the amount of interest income on obligations of states and political subdivisions thereof (other than Mississippi) received by the corporation, net of expenses.

**Line 5c.** Enter the amount of depletion claimed on Form 1120S in excess of the cost basis of the asset on which the depletion is claimed.

**Line 5d.** Enter the amount of 30% or 50% special depreciation allowance claimed for federal tax purposes on property placed into service on or after September 11, 2001. Federal Form 4562 must be completed twice and attached immediately after Form 85-122. The first submission reflects the deductions taken for federal income tax purposes. The second submission will be labeled Mississippi at the top of the form and will compute the apportionable and/or allocable depreciation deduction without taking into account any 30% or 50% special depreciation allowance (generally line 14 of Federal Form 4562). Any difference between the two submissions resulting from the 30% or 50% special depreciation allowance is reported as an increase on this line. Any additional depreciation expense, for purposes of this state, due to the basis adjustment not being made is reported on line 7e of this form.

**Line 5e.** Enter any other additions required by law. Other additions may include, but are not limited to, 1) unrecognized installment sale gains, and 2) add back of intangible expenses and costs and interest expenses and costs incurred with certain related members. Gains on installment sales must be recognized in full in the year of sale per Section 27-7-15(2)b and reported to shareholders. However, shareholders generally may elect to defer the payment of tax to the same extent income is deferred for federal purposes.

Intangible expenses and costs and interest expenses and costs incurred with certain related members must be added back to income. For details see Section 27-7-17(2).

**Line 6.** Total Additions. Add Lines 5a through 5e and enter total here.

**Line 7a.** Interest income received on direct U. S. Government obligations (see Regulation 204 on what constitutes a direct obligation) is not taxable to Mississippi. Enter the amount of such interest reported as income on Form 1120S, net of expenses.

**Line 7b.** Enter the wage expenses that weren't deducted on the federal return computation because a federal tax credit was taken in lieu of an expense.

**Line 7c.** Enter the income from a partnership, S corporation, trust, or other flow-through entity. Flow-through entity income is allocated based on the source as determined in the hands of the flow-through entity rather than the owner.

**Line 7d.** Multistate construction contractors and producers of mineral or natural resource products must use direct accounting (Form 83-124 - Direct Accounting Income Statement), to report the income from these lines of business. Enter the income (net of expenses) from these lines of business as reported on Federal Form 1120S. For further information concerning accounting methods for contractors and mineral producers please see Regulation 806 for details. If this is your only line of business in Mississippi, skip lines 1 through 13 and start with line 14.

**Line 7e.** When a 30% or 50% special depreciation allowance is taken for federal tax purposes, the depreciable base must be reduced by the amount of the allowance. Enter the additional depreciation expense for purposes of this state due to the basis adjustment not being made for state purposes. Attach supporting computations for any amounts claimed.

**Line 7f.** Other deductions authorized by law. For each adjustment provide an explanation of your basis for exclusion and a schedule showing how the amount is computed. In particular, gain from the sale of an interest in certain types of domestic entities may not be recognized for state purposes. If this is applicable provide a schedule showing the computation of the non-recognized gain. For more details on what qualifies for this exclusion, see section Mississippi Code Section 27-7-9(f)(10)A (available at [www.sos.state.ms.us](http://www.sos.state.ms.us)). Gain from the sale of assets by certain domestic corporations is not recognized under Section 27-7-9(f)(10)B. However, in applying section 27-7-9(f)(10)B, gain must be recognized to the extent of ALL depreciation and amortization of property and assets prior to the nonrecognition of any gain. A computation of the excluded gain must be attached.

**Line 8.** Total Deductions. Add Lines 7a through 7f and enter total here.



**Line 9.** Adjusted Federal Form 1120S income (loss) subject to apportionment (line 4 plus line 6 minus line 8). If this corporation is not doing business in other states (as opposed to multiple states) skip lines 10 through 12 and enter the amount of this line on line 13.

**Line 10.** Enter the amount of nonbusiness income (loss) shown on the Nonbusiness Income Schedule, Form 83-150, Column E total.

**Line 14.** Enter the amount of nonbusiness income allocated to Mississippi shown on the Nonbusiness Income Schedule, Form 83-150, Column F total.

**Line 15.** Enter the amount of Mississippi income received from a partnership, S corporation, trust, or other flow-through entity (Attach MS K-1's).

**Line 16.** Direct business income of contractors and producers of natural and/or mineral resource products. Enter the amount(s) from Form 83-124 line 31, page 1, and line 15 page 2.

**Line 17.** Enter other adjustments required by law .

**Line 18.** Income apportioned and directly allocated to MS (sum lines 13 through 17). Note: Unless you are filing a composite return on behalf of some or all of the nonresident shareholders, stop here and enter zero on Form 85-105, line 4.

**Line 19.** Composite return filing adjustments (See section below) .

**Line 20.** Mississippi composite income subject to tax (line 18 less line 19). If positive, report this amount on Form 85-105 line 4. Only income of qualified nonresident shareholders electing to be in a composite filing is included on this line. All other income is reported on a MS K-1 to each of the respective shareholders.

### COMPOSITE FILING INSTRUCTIONS

In general, any nonresident individual may elect to be included in a composite filing. Indicate each shareholder included in the composite filing by writing "composite" after the shareholders name on Form 85-131 Schedule K. Once an individual elects to be included in a composite filing, they must continue to file in this manner.

Underestimate, late payment, and any other interest and penalties will be determined on the composite income.

Return filings are due on the 15<sup>th</sup> day of the third month following the close of the accounting period. However, an automatic six-month filing extension is granted for all composite return filings. This is not an extension of time to pay.

The net income for each electing member included in a composite filing will generally be computed in the same manner as in a separate individual filing except that a deduction of \$5,000.00 or 10% of the composite net income, whichever is less, is authorized in lieu of any individual exemption and deduction. Likewise, the tax liability is computed on the combined income of all electing members, that is, on the composite taxable income. Composite members are allowed tax credits, as well as net operating loss and capital loss deductions, provided they are computed and tracked on an individual basis.

Example 1:

White Acre, Inc. is a multi-state foreign S corporation doing business in Mississippi. B, C, D, E and F are shareholders of the corporation each with a 20% ownership/profits interest. B, C, D, and E are residents of Texas, while F is a resident of this state. B, C, and D elect to be included in a combined return. White Acre has the following income computations:

Ordinary Income per federal 1120S.	\$150,000.00
Net Income from rental real estate activities (federal schedule K)	\$20,000.00
Interest Income	\$48,000.00
Net 1231 Gain	\$11,500.00
Section 179 Expense	<\$17,500.00>
Total Federal Income	\$212,000.00

State Additions:

Add back of intangible expenses with related member	\$140,000.00
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State Deductions:

Interest on Obligations of the United States (Net of expenses):	<\$40,000.00>
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Total Net Income for State purposes	\$312,000.00
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Less: Non-business income allocable within/without this state:	<\$20,000.00>
Net Business Income Subject to Apportionment:	\$292,000.00
Apportionment Factor:	40.00%
Mississippi Net Business Income	\$116,800.00
Non-business allocable to MS	\$2,000.00
Mississippi Net Income:	\$118,800.00

**(THIS AMOUNT CORRESPONDS TO LINE 18 OF FORM 85-122)**

Ownership Interest of B, C, & D	60%
Composite Filing MS Net Income	\$71,280.00
Composite Filing Exemption/Deduction	<\$5,000.00>
Composite Filing Net Oper. Loss Carryover	<\$20,000.00>
Composite Filing MS Net Taxable Income	\$46,280.00

**(THIS AMOUNT CORRESPONDS TO LINE 20 OF FORM 85-122)**

**(THE DIFFERENCE BETWEEN LINES 18 AND 20 IS \$72,520.00 AND IS ENTERED ON LINE 19 OF FORM 85-122)**

Composite Filing Income Tax Liability	\$2,164.00
<u>Schedule K Income:</u>	
Shareholder B Mississippi Income	\$17,093.00
Shareholder C Mississippi Income	\$17,093.00
Shareholder D Mississippi Income	\$17,093.00
Shareholder E Mississippi Income	\$23,760.00
Shareholder F Resident Income	\$62,400.00

Schedule K income for each of the shareholders B, C, and D is determined by multiplying the Composite Filing MS Net Taxable Income and the ratio of the respective shareholders ownership percentage to the total ownership percentage of composite filers (\$51,280.00 \* 20%/60%). Income attributable to composite filers is reported on schedule K, but will not be reported on a K-1 since the income is part of the composite filing.

Schedule K income for shareholder E a nonresident non-composite filer is determined by multiplying Mississippi Net Income and the shareholder's ownership or profits percentage. Any net operating loss carryover would be applied at the shareholder level in a nonresident return filing.

Schedule K - 1

Shareholder E:

Ordinary Income	
(Includes adj. for add-back of intangible exp.)	\$23,200.00
Net Income from Rental Real Estate Activities	\$400.00
Interest Income (Includes adjustment of exempt inc. from treasury sec.)	\$640.00
Net 1231 Gain	\$920.00
Section 179 Expense	<\$1,400.00>

This rental real estate Income is classified as non-business in nature. The Mississippi allocable portion is \$2,000.00 of which shareholder E received 20% or \$400.00.

Schedule K income for shareholder F a resident of this state is determined by multiplying Total Net Income for State Purposes and the shareholder's ownership or profit percentage.

Schedule K - 1

Shareholder F:

Ordinary Income (Includes adj. for add-back of intangible exp.)	\$58,000.00
Net Income from Rental Real Estate Activities	\$4,000.00
Interest Income	\$1,600.00
Net 1231 Gain	\$2,300.00
Section 179 Expense	<\$3,500.00>

Composite Members are allowed tax credits, as well as net operating and capital loss deductions provided they are computed and tracked on an individual basis.

Example 2:

Green Acre, Inc. is a multistate foreign S corporation doing business in Mississippi. A, B, and C are nonresident shareholders of the corporation with a 20%, 30%, and 50% ownership/profits interest respectively (no special allocations exist). For tax year 1998 A, B, and C were included in a composite return filing in which the composite Mississippi net taxable income (after the 10% exemption deduction) is \$30,000.00 with a corresponding tax liability of \$1,350.00. On June 30 of 1999, A sold ½ of his interest to D a nonresident shareholder and ¼ of his interest to shareholder B. For the tax year ended 1999 D elected to be included in the composite return filing. A, B, and C were already bound by a prior year election to be included in the composite. For tax year 1999 the composite Mississippi taxable income/loss was <\$40,000.00>. The amount attributable to each shareholder was determined as follows:

Shareholder	Ownership %	Holding Period (Number of days/365 days)	Annualized Ownership %	Composite Loss	Attributed Loss
A	20.0000%	181/365	9.9178%	(\$40,000.00)	(\$3,967.12)
A	5.0000%	184/365	2.5205%	(\$40,000.00)	(\$1,008.21)
B	30.0000%	365/365	30.0000%	(\$40,000.00)	(\$12,000.00)

B	5.0000%	184/365	2.5205%	(\$40,000.00)	(\$1,008.21)
C	50.0000%	365/365	50.0000%	(\$40,000.00)	(\$20,000.00)
D	10.0000%	184/365	5.0411%	(\$40,000.00)	(\$2,016.46)
Composite Group			100.00%	(\$40,000.00)	(\$40,000.00)
Shareholder	Prior Yr. Inc.	Current Year Loss (1999)	Offset Against 1998 Income	Loss Carryforward	
A	\$6,000.00	(\$4,975.33)	(\$4,975.33)	\$0.00	
B	\$9,000.00	(\$13,008.21)	(\$9,000.00)	(\$4,008.21)	
C	\$15,000.00	(\$20,000.00)	(\$15,000.00)	(\$5,000.00)	
D	\$0.00	(\$2,016.46)	\$0.00	(\$2,016.46)	
Composite Group	\$30,000.00	(\$40,000.00)	(\$28,975.33)	(\$11,024.67)	

#### District Offices of the State Tax Commission

##### Brookhaven District Service Office

P.O. Box 3999, Brookhaven, MS 39603-7999  
1385 Johnny Johnson Dr.

Ph: (601) 833-4761  
Fax: (601) 833-3096

##### Columbus District Service Office

P.O. Box 8885, Columbus, MS 39705  
4072 Highway 45 N.

Ph: (662) 328-3271  
Fax: (662) 328-1290

##### Greenwood District Service Office

P.O. Drawer D, Greenwood, MS 38935-0420  
117 B Grand Blvd.

Ph: (662) 453-1742  
Fax: (662) 453-7981

##### Gulf Coast District Service Office

1141 Bayview Ave., Ste. 400  
Biloxi, MS 39530-1601

Ph: (228) 436-0554  
Fax: (228) 436-0964

##### Hattiesburg District Service Office

P.O. Box 1709, Hattiesburg, MS 39403-1709  
17 JM Tatum Industrial Dr, Ste. 2

Ph: (601) 545-1261  
Fax: (601) 584-4051

##### Jackson District Service Office

P.O. Box 1033, Jackson, MS 39215-1033  
1577 Springridge Rd., Raymond, MS 39154-9602

Ph: (601) 923-7300  
Fax: (601) 923-7318

##### Meridian District Service Office

P.O. Box 3625, Meridian, MS 39303  
2600 Old N Hills St.

Ph: (601) 483-2273  
Fax: (601) 693-2473

##### Senatobia District Service Office

P.O. Box 127, Senatobia, MS 38668  
115 S. Ward St.

Ph: (662) 562-4489  
Fax: (662) 562-7392

##### Tupelo District Service Office

P.O. Box 3000, Tupelo, MS 38803  
2610 Traceland Dr. Tupelo, MS 38801

Ph: (662) 842-4316  
Fax: (662) 842-5041